IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.C.J.

NOTICE OF MOTION NO. 3637 OF 2003

IN

SUIT NO. 4172 OF 1995

Rajanikant Kantilal Kadakia
and anr. ...Plaintiffs.
vs.
Smt. Pushpa Ratilal Mehta
and Ors. ...Defendants.
AND
Phil Corpn. Ltd ...Applicants

Shailesh Shah i/by. Khona and Kayser

for the plaintiffs.

Ms. Manjiri Shah i/by. Bodhanwala and co.

for the defendants

CORAM: S.U. KAMDAR, J.

DATE : 2nd March, 2006.

P.C. :

1. The present notice of motion is filed for setting aside the ex-parte decree dated

10.11.2003. The ground on which the decree is sought to be set aside is that even before the 12 weeks expired under Rule 74 of the High Court Rules enabling the defendant to file vakalatnama, decree has been obtained because the service is of 4.9.2003 and decree is obtained on 10.11.2003. For the reasons set out in the affidavit in support I grant the motion in terms of prayer clause (a) and (b). The defendant will pay the cost to the plaintiff quantified at Rs.2500/- within two weeks.

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